

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

2. At the time petitioner entered into her lease, petitioner was employed as a LPN. Petitioner lost her job on or about March 11, 2006 and became eligible for unemployment compensation benefits of \$140 per week after a six week disqualification period.

3. On August 17, 2006, petitioner was served with a Summons and Complaint for eviction based upon nonpayment of rent. At that point, petitioner owed a total of \$1,575 in back rent.

4. Petitioner first applied for the back rent program on or about August 18, 2006. At the time of this application, petitioner's income consisted of unemployment benefits and she explained that she had a roommate to help with the rent. The Department asked the petitioner to supply verification including that the roommate had been added to the lease, documentation of the payments from the roommate, and a budget of how petitioner's income had been spent.

5. On August 23, 2006, the Department denied petitioner's application for lack of verification.

6. Petitioner reapplied for the back rent program on or about August 23, 2006. Petitioner provided verification of two part-time jobs. Petitioner started as a companion on August 12, 2006 for 10 hours per week at \$8.50 per hour and started a part-time retail job on August 24, 2006 for 10 to 20 hours per week at \$8.00 per hour. Petitioner alleged she was renting two rooms in her apartment. The Department asked for verification that petitioner had permission from the

landlord to rent part of her space to roomers, verification from the roomers of their payments, and budget information.

7. The Department denied petitioner's application for the back rent program. The Department noted her monthly income was \$1,053.50 which is less than the monthly rent. The Department did not consider the apartment affordable for petitioner and did not think that paying the back rent would prevent homelessness. In addition, the Department noted the lack of verification regarding the roomers and the budget.

8. The petitioner then appealed both denials of the back rent program. The appeal was filed with the Human Services Board on September 11, 2006.

9. A hearing was held on September 28, 2006 and held open to allow for further documentation by the petitioner and to allow petitioner an opportunity to seek legal counsel regarding the eviction and the back rent program.¹ Prior to the hearing, petitioner had received notice that the landlord was seeking a default judgment against her.

10. At the hearing, the petitioner testified that she had just begun a full-time retail job on September 24, 2006 at \$12.00 per hour and would not be doing part-time retail

¹ Petitioner has asked for advice about the eviction from the Human Services Board and we have repeatedly referred her to Vermont Legal Aid.

work for other employers although she intended to keep her work as a companion. The anticipated gross salary from the new retail job would be \$2,064 per month. Subsequent to the hearing, petitioner brought verification to the Department of the new retail job. Testimony about the number of roomers and the dates of tenancy was unclear and inconsistent. Petitioner did testify that she had not received any payments from any past roomers.

11. As of October, 2006, petitioner owed the landlord \$3,335 for rent from July through October, 2006. The landlord was willing to drop his request for a writ of possession if the petitioner paid on or before November 1, 2006 (1) rent of \$3,335 representing rent due through October, (2) \$1,250 November rent, and agreed to (3) a judgment in the amount of \$1,463.90 for attorney's fees and court costs.

12. Petitioner has not supplied the Department with verification regarding roomers and her budget. Petitioner has not been consistent about her intentions to find other housing now, stay short-term at her present apartment until her finances are in order, or to stay long-term in her present apartment.

13. The fair hearing was reconvened on October 26, 2006 and the parties were informed that the Department would be affirmed.

ORDER

The Department's decision is affirmed.

REASONS

The emergency assistance rules provide families with dependent children assistance to meet certain emergency needs when those needs cannot be met in any other way and when the applicant meets the eligibility criteria for emergency assistance. Welfare Assistance Manual (W.A.M.) §§ 2800 *et seq.*

To prevent homelessness, an applicant can apply for rental arrearages or back rent through the emergency assistance program. W.A.M. § 2813.3. The back rent program is not an entitlement program. W.A.M. § 2813.3.

To qualify for the back rent program, an applicant must meet the following criteria in W.A.M. § 2813.31:

A family with children facing loss of shelter due to rental or mortgage arrearage may be eligible for payment of all or a portion of that arrearage when the family meets all of the following four criteria:

- (1) The family has received a notice of rental termination under 9 V.S.A. § 4467(a)...

- (2) There is a realistic probability that the payment will actually prevent homelessness, rather than postpone it.
- (3) The landlord. . . agrees to terminate any action intended to evict or otherwise cause the family to relocate as a result of the payment. The landlord must also agree not to reinstitute such action on the basis of obligations remaining as of the date of the payment.
- (4) The family meets all other criteria for EA eligibility. . .

There are two categories for the back rent program.

Category I assistance includes additional requirements that the applicant demonstrate either (1) rent payments were not made due to an emergency or extraordinary event or (2) rent payments were not made because the family's essential expenses exceed income and the family made a good faith effort to pay their essential expenses (rent, utilities, transportation for work, work-related child care, etc.). W.A.M. § 2813.32(A). Because the funding for Category II assistance has been depleted, the petitioner needs to show eligibility for Category I assistance.

The Department based their decision on two primary reasons. First, the petitioner did not provide verification including budget information so that a determination could be made whether the family had made a good faith effort to meet essential expenses. Second, the Department determined that

any payments under the back rent program would only delay homelessness, not prevent homelessness.

The Department repeatedly asked the petitioner for information regarding her budget—her income and expenses. The Department received conflicting information about roomers and scant information to determine whether the petitioner was making a good faith effort to meet essential expenses. During the pendency of this case, petitioner was not forthcoming with this information. Petitioner's failure to provide this type of verification supports the Department's denial.

Moreover, the Department had grounds to conclude that payment of back rent would only postpone homelessness, not prevent homelessness. Petitioner's lease was for a one year term. Petitioner's testimony regarding her intentions to remain in the apartment have been conflicting including looking for more affordable housing at this time to putting her financial house in order to find appropriate housing once her lease concluded. Petitioner's recent employment history has been bumpy. There are not sufficient indicators that petitioner could meet the landlord's demands to stop the eviction; and, if petitioner could pay November's rent, there are not sufficient indicators that she has the ability to

maintain rental payments over the course of time. The rental payment is approximately 60% of her gross wages and would be a higher percentage of her net wages leaving petitioner without sufficient funds for her other necessary expenses such as utilities, transportation, and child care. The petitioner did not present sufficient evidence that she would be able to maintain her housing.

The Department's decision is based upon credible evidence and proper interpretation of the regulations and should be affirmed. 3 V.S.A. § 3091(d), Fair hearing Rule 17.

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